

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF OHIO  
EASTERN DIVISION**

<b>DENISE TURNER,</b>	)	<b>CASE NO. 1:13 CV 1916</b>
	)	
<b>Plaintiff,</b>	)	<b>JUDGE DONALD C. NUGENT</b>
	)	
<b>v.</b>	)	
	)	
	)	<b><u>MEMORANDUM OPINION</u></b>
	)	<b><u>AND ORDER</u></b>
<b>CAROLYN W. COLVIN</b>	)	
<b>Acting Commissioner of Social</b>	)	
<b>Security</b>	)	
	)	
<b>Defendant.</b>	)	

This matter is before the Court upon the Report and Recommendation of Magistrate Judge Greg White. (Document #27.) On August 30, 2013 Plaintiff, Denise Turner filed her complaint challenging the final decision of the Acting Commissioner of Social Security, Carolyn W. Colvin ("Commissioner") denying her claim for Supplemental Security Income ("SSI") under Title XVI of the Social Security Act ("Act"), 42 U.S.C. § 1381 *et seq.* Pursuant to Local Rule 72.2(b), the case was referred to Magistrate Judge Greg White.

On August 7, 2014, the Magistrate Judge issued his Report and Recommendation. (Docket #27.) The Magistrate Judge recommends that the Court remand this matter to afford the ALJ the opportunity to sufficiently evaluate the limitations assessed by Dr. Perryman as a result of Turner's musculoskeletal pain and fibromyalgia. On August 21, 2014, the Government filed

its Response to the Magistrate Judge's Report and Recommendation, indicating it would not be filing objections. (Docket #28.)

### **Standard of Review for a Magistrate Judge's Report and Recommendation**

The applicable standard of review of a magistrate judge's report and recommendation depends upon whether objections were made to that report. When objections are made to a report and recommendation of a magistrate judge, the district court reviews the case de novo. FED. R. CIV. P. 72(b) states:

The district judge must determine de novo any part of the magistrate judge's disposition that has been properly objected to. The district judge may accept, reject, or modify the recommended disposition; receive further evidence; or return the matter to the magistrate judge with instructions.

The text of Rule 72(b) addresses only the review of reports to which objections have been made; it does not indicate the appropriate standard of review for those reports to which no objections have been properly made. The Advisory Committee on Civil Rules commented on a district court's review of *unopposed* reports by magistrate judges. In regard to subsection (b) of Rule 72, the advisory committee stated: "When no timely objection is filed, the court need only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation." FED. R. CIV. P. 72 advisory committee's notes (citation omitted).

The U.S. Supreme Court stated in *Thomas v. Arn*, 474 U.S. 140, 150 (1985): "It does not appear that Congress intended to require district court review of a magistrate judge's factual or legal conclusions, under a de novo or any other standard, when neither party objects to those findings."

### Conclusion

The Court has carefully reviewed the Report and Recommendation and agrees with the findings set forth therein. The Report and Recommendation of Magistrate Judge White (Docket #27) is ADOPTED. The decision of the ALJ is VACATED and the case REMANDED pursuant to 42 U.S.C. § 405(g), sentence four, for further proceedings consistent with the Report and Recommendation.

IT IS SO ORDERED.

  
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DONALD C. NUGENT  
United States District Judge

DATED: September 30, 2014